

DECEMBER 9, 2003

REGULAR SESSION

7:00 P.M.

Following a Work Session, the Regular Session meeting was called to order at 7:00 P.M. by Mayor Ferguson with Councilmembers Simillion, Stone, Smits and Duba present, along with City Attorney Landwehr, City Manager Collins, City Clerk Davidson, Finance Director Hanson, Parks & Recreation Director Ampietro, Community Development Director Hannon, Public Works Director Coleman, Police Chief Keehne, Planning Technician Stawowy, several interested citizens and the press.

PUBLIC HEARING

7:00 P.M.

Receive Public Input on Proposed Electric Rates. Mayor Ferguson opened the public hearing at 7:00P.M. and stated the reason for the public hearing is to receive public input on the proposed electric rates. Mayor Ferguson asked if there was proof of publication. City Clerk Davidson stated we have proof of publication. Mayor Ferguson called for the applicants testimony.

Public Works Director Coleman came forward and stated the proposed rates are based on the Electric Rate Analysis that was presented to Council and has been reviewed at several previous Council work sessions. Director Coleman asked Council if they had further questions. They did not.

Mayor Ferguson asked for any further input from the public. No one asked to testify. Hearing no further testimony, the Mayor closed the public hearing at 7:04 P.M.

PUBLIC HEARING

Receive Public Input on Hotel & Restaurant Liquor License Application from Backyard Bar-B-Que, Inc. dba Backyard Bar-B-Que, 800 N. Main Street, Gunnison, CO. Mayor Ferguson opened the public hearing at 7:04 P.M. and stated the reason for the public hearing is to receive public input on the Hotel & Restaurant Liquor License application from Backyard Bar-B-Que, Inc., dba Backyard Bar-B-Que, 800 N. Main Street in Gunnison, CO. The public hearing is taking place in the City Council Chambers, 201 W. Virginia Avenue, Gunnison, CO. The Mayor stated those in attendance were the City Councilmembers, City Manager, City Attorney and City Clerk. Mayor Ferguson requested the applicants come forward and identify themselves.

Applicants Jeff Boril and Jake Jacobs came forward and identified themselves. The City Clerk asked if there was anyone else who wished to testify. Hearing none, she administered the oath to Mr. Jacobs and Mr. Boril. The applicants stated they wanted to have the liquor license because people enjoy having a beer with their barbeque. They entered into the record a petition with signatures from citizens wanting the liquor license. Mayor Ferguson thanked the applicants. Councilmember Duba asked how the liquor license would affect their business. Mr. Jacobs stated it would be favorable and it would serve the public.

City Attorney Landwehr explained the City Council is sitting as the local licensing authority and it is their responsibility to determine the need and necessity for this establishment. He stated the determination of the neighborhood is the incorporated City limits of Gunnison, Colorado.

City Clerk Davidson stated the preliminary investigation report is in Council packets, the City has proof of publication, proof of posting, the application is in order, and the fees have been paid.

Mayor Ferguson called for any testimony in favor of the application. There was none. He then called for testimony in opposition of the application. There was none. The Mayor then called for any other testimony. There was none. Mayor Ferguson then stated the application will be taken under consideration under New Business in the Regular Session.

Mayor Ferguson closed the public hearing at 7:12 P.M.

PUBLIC HEARING

Receive Public Input on Tavern Liquor License Application from JLM Group, Inc., dba Hanger Bar & Grill, 711 W. Rio Grande Avenue, (Gunnison/Crested Butte Regional Airport), Gunnison, CO. Mayor Ferguson opened the public hearing at 7:12 P.M. and stated the reason for the public hearing is to receive public input on the Tavern Liquor License application from JLM Group, Inc., dba Hanger Bar & Grill, 711 W. Rio Grande Avenue, Gunnison, CO. The public hearing is taking place in the City Council Chambers, 201 W. Virginia Avenue, Gunnison, CO. The Mayor stated those in attendance were the City Councilmembers, City Manager, City Attorney and City Clerk. Mayor Ferguson requested the applicants come forward and identify themselves.

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Applicant Michael Scales came forward and identified himself. The City Clerk asked if there was anyone else who wished to testify. Hearing none, she administered the oath to Mr. Scales. The applicant stated they wanted to have the liquor license so that people flying into or out of the airport and the local citizens can enjoy the restaurant. Mr. Scales entered into the record a petition with signatures from citizens wanting the liquor license. Mayor Ferguson thanked Mr. Scales.

City Attorney Landwehr explained, like in the previous public hearing, the City Council is sitting as the local licensing authority and it is their responsibility to determine the need and necessity for this establishment. He stated the determination of the neighborhood is the incorporated City limits of Gunnison, Colorado.

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City Clerk Davidson stated the preliminary investigation report is in Council packets, the City has proof of publication, proof of posting, the application is in order, and the fees have been paid. She informed Council there is a typographical error in the preliminary report. On page two, section 6a, it should read Applicants: JLM Group, Inc. The corporate members are the same. The corporation members have changed from the original application, Mr. Michael Busse, is no longer a corporation member. The City Clerk stated she contacted the State Liquor Division and made them aware of the change and will fax the minutes of the corporation to the State along with the application, if Council approves the application.

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Mayor Ferguson called for any testimony in favor of the application. There was none. He then called for testimony in opposition of the application. There was none. The Mayor then called for any other testimony. There was none. Mayor Ferguson then stated the application will be taken under consideration under New Business in the Regular Session.

Mayor Ferguson closed the public hearing at 7:15 P.M.

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Consideration of Minutes

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Regular Session Minutes of November 25, 2003

Councilmember Simillion moved and Councilmember Stone seconded the motion to approve the Regular Session Minutes of November 25, 2003, as submitted.

Roll call vote, yes: Simillion, Stone, Ferguson, Smits, Duba. So carried.
Roll call vote, no: None.

Pre-Scheduled Citizens:

Superstars of Property Maintenance/Development. Mayor Ferguson stated he would hand out the awards and Community Development Director Hannon would give a brief explanation of the property being awarded. The first place award in the commercial category was Subway Restaurant for the renovation of the old Total gas station/convenience store. Liz Robles, representing Subway came forward and received the award. The second place went to the Gunnison Brewery for the renovation of the old Ellis Jewelry building. No one was present from the Gunnison Brewery. Third place went to Farrell’s Restaurant for the exterior painting of one of the oldest buildings on Main Street. The new paint scheme is keeping with the period of the building. Patrick and Judy Farrell came forward and received the award. In the residential property category, the first place award went to Mike Cole for the installation of high density dwelling units on S. 7th Street. His project was an in-fill project and didn’t create residential sprawl on the fringes of the City. Mr. Cole came forward and received his award. Second place went to Beth Marcue for her creative renovation of an older garage into a professional office on residential property. Third place went to John Shepardson for the construction of new residential units in the W Mountain Subdivision. Eric Ferchau came forward and accepted the award for Mr. Shepardson. Mayor Ferguson thanked all of the award recipients and thanked them for their contributions to bettering the City.

Jane Chaney - Director, Gunnison Valley Tourism Association. Ms. Chaney came forward and stated Council had received a packet containing copies of the press promotions that have and are taking place. Ms. Chaney reviewed the print advertising, including the Continental Airlines ticket jacket stuffer that will be distributed starting in December. This is a cross selling of the summer season. It lists summer events in the Gunnison Valley. Ms. Chaney then reviewed articles that have been placed in national and local newspapers and magazines. She commended the local media for their assistance with articles. Ms. Chaney stated a weekly e-mail “blast” will go out over the winter to 37,000 travel agents. Council’s packets also contain a CD-Rom of the available press kit, including current press releases. Ms. Chaney reviewed the 2003 and 2004 budgets for the

Tourism Association. Their revenue is generated from the lodging tax allowed in 1A and 1B. Lastly, Ms. Chaney reviewed some of the local organizations she has addressed. She asked Council if they had any questions.

Councilmember Simillion asked Ms. Chaney if she had any staff. She replied no, she is working alone. Councilmember Stone noted in the press release that Gunnison County and Crested Butte are mentioned several times but there is little mention of the City of Gunnison. Ms. Chaney explained the last part of the release is “boilerplate” information and she will update that information to include more mention of the City of Gunnison. Councilmember Stone thanked Ms. Chaney for all of the work she has done.

Unfinished Business:

2004 City Budget. Finance Director Hanson stated she had no additional items for the 2004 City Budget. Council had no comments or questions.

New Business:

Appointment to Fill Vacancy on Gunnison Historic Preservation Committee. An interview for the vacancy was conducted during the Work Session prior to the Regular Session. Councilmember Smits asked about the term of the position. City Clerk Davidson stated the vacancy was created by the resignation of Bob Lowe and the term is an indefinite term.

Councilmember Smits moved and Councilmember Simillion seconded the motion to appoint Paul Gery to fill the vacancy on the Gunnison Historic Preservation Committee for an indefinite term.

Roll call vote, yes: Stone, Ferguson, Smits, Duba, Simillion. So carried.
Roll call vote, no: None.

Alley Vacation Request VF-02-3; From Dale Thomas for Vacation of E-W Alley in Block 133, West Gunnison Amended. This item was discussed during the Work Session prior to this Regular Session.

Councilmember Stone moved and Councilmember Duba seconded the motion to accept the recommendation from the Planning Commission and approve Alley Vacation Request VF-02-3 with the findings of fact listed in the recommendation and with the condition that a 25 foot utility and access easement be reserved for the City of Gunnison over the entire vacated alley.

Roll call vote, yes: Ferguson, Smits, Duba, Simillion, Stone. So carried.
Roll call vote, no: None.

Councilmember Smits commended Planning Technician Stawowy on completing her first application process. She did a good job.

Hotel & Restaurant Liquor License Application from Backyard Bar-B-Que, Inc.

Councilmember Stone moved and Councilmember Smits seconded the motion that the Hotel & Restaurant Liquor License for Backyard Bar-B-Que, Inc. dba Backyard Bar-B-Que, 800 N. Main Street, Gunnison, Colorado, 81230, be approved for the following reasons:

1. There has not been a denial of an application at the same location, or a location within 500 feet thereof, by either the state or local licensing authority within the two years preceding the date of the application on the grounds that the reasonable requirements of the neighborhood were satisfied by existing outlets.
2. It appears from the evidence submitted with the application that the applicants are entitled to possession of the premises where the license is proposed to be exercised.
3. Selling liquor by the drink in the manner proposed in the application is not in violation of the zoning, fire, and other applicable codes of the City of Gunnison or the laws of the State of Colorado.

4. The building where the application proposes to sell liquor - malt, vinous, and spirituous by the drink, does not appear to be within 500 feet of any public or parochial school or the principal campus of any college, university, or seminary.

5. Within the City limits of the City of Gunnison, where liquor is proposed to be sold, there are the following existing other outlets:

- 4 - Beer and Wine Licenses
- 5 - Hotel/Restaurant Licenses
- 5 - Retail Liquor Store Licenses
- 1 - Arts License
- 1 - Brew Pub License
- 9 - Tavern Licenses
- 2 - Club Type Licenses
- 6 - 3.2% Beer Type License

6. Based on the petitions of adult inhabitants of the City of Gunnison, the license applied for will meet the desires of the adult inhabitants of the City of Gunnison.

7. All fees necessary for the application have been paid.

VIII. According to the information received by the Police Department of the City of Gunnison, Colorado, and the Colorado Bureau of Investigation/Federal Bureau of Investigation, the applicants are of good moral character and possesses the qualifications necessary to conduct the type of business proposed.

Roll call vote, yes: Smits, Duba, Simillion, Stone, Ferguson. So carried.

Roll call vote, no: None.

Tavern Liquor License Application from JLM Group Inc., dba Hanger Bar & Grill.

Councilmember Smits moved and Councilmember Duba seconded the motion that the Tavern Liquor License for JLM Group, Inc., dba Hanger Bar & Grill; 711 W. Rio Grande Avenue, Gunnison, Colorado, 81230, be approved for the following reasons:

1. There has not been a denial of an application at the same location, or a location within 500 feet thereof, by either the state or local licensing authority within the two years preceding the date of the application on the grounds that the reasonable requirements of the neighborhood were satisfied by existing outlets.

2. It appears from the evidence submitted with the application that the applicants are entitled to possession of the premises where the license is proposed to be exercised.

3. Selling liquor by the drink in the manner proposed in the application is not in violation of the zoning, fire, and other applicable codes of the City of Gunnison or the laws of the State of Colorado.

4. The building where the application proposes to sell liquor - malt, vinous, and spirituous by the drink, does not appear to be within 500 feet of any public or parochial school or the principal campus of any college, university, or seminary.

5. Within the City limits of the City of Gunnison, where liquor is proposed to be sold, there are the following existing other outlets:

- 4 - Beer and Wine Licenses
- 5 - Hotel/Restaurant Licenses
- 5 - Retail Liquor Store Licenses
- 1 - Arts License
- 1 - Brew Pub License
- 9 - Tavern Licenses
- 2 - Club Type Licenses
- 6 - 3.2% Beer Type License

6. Based on the petitions of adult inhabitants of the City of Gunnison, the license applied for will meet the desires of the adult inhabitants of the City of Gunnison.

7. All fees necessary for the application have been paid.

VIII. According to the information received by the Police Department of the City of Gunnison, Colorado, and the Colorado Bureau of Investigation/Federal Bureau of Investigation, the applicants are of good moral character and possesses the qualifications necessary to conduct the type of business proposed.

Roll call vote, yes: Duba, Simillion, Stone, Ferguson, Smits. So carried.
Roll call vote, no: None.

Appointment of Additional Members to Community Center Architectural Services Selection Committee. City Manager Collins informed Council the City had received letters of interest in serving on the selection committee from Joy Hart and David Mear. In addition, The County Commissioners, via an e-mail, have recommended County CEO John DeVore serve on the committee as well.

Councilmember Stone moved and Councilmember Simillion seconded the motion to appoint Joy Hart, David Mear and John DeVore to the Community Center Architectural Services Selection Committee.

Roll call vote, yes: Simillion, Stone, Ferguson, Smits, Duba. So carried.
Roll call vote, no: None.

Councilmember Stone thanked the volunteers for their willingness to serve on the Committee.

Letter of Support for Local TEA21 Enhancement Grant Applications. Community Development Director Hannon informed Council that the four jurisdictions met at a meeting facilitated by the City of Gunnison and prioritized the transportation projects. The letter of support is for the projects from the other four jurisdictions and from the Crested Butte Land Trust. Gunnison County is the only County in Region 10 to have this County-wide collaboration on these transportation system enhancement projects.

Councilmember Duba moved and Councilmember Stone seconded the motion to approve the letter of support for the Local TEA21 Enhancement Grant Applications and authorize the Mayor to sign the letters of support.

Roll call vote, yes: Stone, Ferguson, Smits, Duba, Simillion. So carried.
Roll call vote, no: None.

Cancel Regular Session Meeting Scheduled for December 23, 2003, and Set Special Session Meeting of Council for December 19, 2003, at 5:30 P.M. Mayor Ferguson stated since several Councilmembers will be out of town on December 23, Council would like to cancel the Regular Session meeting and reschedule that meeting as a Special Session.

Councilmember Stone moved and Councilmember Simillion seconded the motion to cancel the Regular Session meeting of Council scheduled for December 23, 2003, and set a Special Session of Council for Friday, December 19, 2003, at 5:30 P.M., with the following agenda items: Regular Session Minutes of December 9, 2003, Qwest Communications presentation on the new DSL service, selection of the Community Center project architectural services firm, the Clerk's departmental report, and Ordinance No. 19, Series 2003, Vacation of the east-west alley in Block 133, West Gunnison Amended, 2nd Reading.

Roll call vote, yes: Ferguson, Smits, Duba, Simillion, Stone. So carried.
Roll call vote, no: None.

Ordinance and Resolutions:

Ordinance No. 15, Series 2003, Re: Setting 2003 Mill Levy, 2nd Reading.

Councilmember Stone introduced Ordinance No. 15, Series 2003, and it was read by title only by the City Attorney with the tax levy of 3.868 mills being read into the record. Councilmember Stone moved and Councilmember Simillion seconded the motion that Ordinance No. 15, Series 2003, **AN ORDINANCE SETTING A TAX LEVY FOR THE CITY OF GUNNISON, COLORADO**, be introduced, read, passed and adopted on second reading this 9th day of December, 2003.

Roll call vote, yes: Smits, Duba, Simillion, Stone, Ferguson. So carried.
Roll call vote, no: None.

Ordinance No. 16, Series 2003, Re: Adopting and Appropriating the 2004 City Budget, 2nd Reading.

Councilmember Duba introduced Ordinance No. 16, Series 2003, and it was read by title and with Section 2. the appropriations for fiscal year 2003, being read in it’s entirety into the record by the City Attorney. Section 2. reads: The following appropriations are made for the above fiscal year for the City of Gunnison: General Fund \$6,744,159; Enterprise Fund \$5,963,262; Fleet Management Fund \$348,103; Special Revenue Fund \$133,780; Insurance Reserve Fund \$22,000; for a total budget of \$13,211304.

Councilmember Duba moved and Councilmember Simillion seconded the motion that Ordinance No. 16, Series 2003, **AN ORDINANCE ADOPTING AND APPROPRIATING AN ANNUAL BUDGET**, be introduced, read, passed and adopted on second reading this 9th day of December, 2003.

Roll call vote, yes: Duba, Simillion, Stone, Ferguson, Smits. So carried.
Roll call vote, no: None.

Councilmember Stone thanked Finance Director Hanson for her work on preparing the 2004 budget.

Ordinance No. 17, Series 2003, Re: Additional Appropriation to the 2003 City Budget, 2nd Reading.

Councilmember Duba introduced Ordinance No. 17, Series 2003, and it was read by title only by the City Attorney.

Councilmember Stone moved and Councilmember Simillion seconded the motion that Ordinance No. 17, Series 2003, **AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF GUNNISON, COLORADO, ADOPTING AN ADDITIONAL APPROPRIATION FOR THE FISCAL YEAR ENDING DECEMBER 31, 2003**, be introduced, read, passed and adopted on second reading this 9th day of December, 2003.

Roll call vote, yes: Simillion, Stone, Ferguson, Smits, Duba. So carried.
Roll call vote, no: None.

Ordinance No. 18, Series 2003, Re: Vacation of E-W Alley in Block 133, West Gunnison Amended, 1st Reading.

Councilmember Smits introduced Ordinance No. 18, Series 2003, and it was read by title only by the City Attorney.

Councilmember Stone moved and Councilmember Duba seconded the motion that Ordinance No. 18, Series 2003, **AN ORDINANCE VACATING THAT PORTION OF THE EAST-WEST ALLEY LYING BETWEEN LOTS 13 THROUGH 17, BOTH INCLUSIVE, ON THE SOUTH, AND LOT 18 ON THE NORTH, IN BLOCK 133, ACCORDING TO THE OFFICIAL AMENDED PLAT OF TOWN OF WEST GUNNISON, CITY OF GUNNISON, COUNTY OF GUNNISON, STATE OF COLORADO; AND RESERVING A TWENTY-FIVE FOOT WIDE EASEMENT THEREIN**, be introduced, read, passed and ordered published on first reading this 9th day of December, 2003.

Roll call vote, yes: Stone, Ferguson, Smits, Duba, Simillion. So carried.
Roll call vote, no: None.

Resolution No. 20, Series 2003, Re: Approving the Law Enforcement Assistance Fund (LEAF) Contract #L-20-04.

Councilmember Stone introduced Resolution No. 20, Series 2003, and it was read by title only by the City Attorney.

Councilmember Stone moved and Councilmember Simillion seconded the motion that Resolution No. 20, Series 2003, **A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF GUNNISON, COLORADO, APPROVING THE LAW ENFORCEMENT ASSISTANCE FUND (LEAF) CONTRACT #L-29-04**, be introduced, read, passed and adopted this 9th day of December, 2003.

Roll call vote, yes: Ferguson, Smits, Duba, Simillion, Stone. So carried.
Roll call vote, no: None.

City Attorney: Nothing to report.

City Manager Collins: Reported the monthly departmental reports went out last week and if any Councilmember has questions, please feel free to contact the respective Staff member. These were very comprehensive updates.

Acting City Manager/City Clerk Davidson: Informed Council she will give her semi-annual departmental report at next week's Special Session and as of now, there are no agenda items for the December 16, Work Session. If Council has no items they would like placed on that agenda, Council could cancel that meeting. Council concurred with canceling the Work Session scheduled for December 16th. The City Clerk stated she would post the cancellation.

Non-Scheduled Citizens: Bob Bernard, of 912 N. Spruce Street, came forward and addressed Council. He stated, at an invitation from Councilmember Smits, he would like to discuss the current noise ordinance. He has had a recurring problem with neighbors concerning noise issues. The neighbors will be appearing in Municipal Court tomorrow concerning this problem. Mr. Bernard stated that tickets haven't deterred the behavior although he does commend both the Police Department and Dispatch for all of their assistance with this problem. He believes Gunnison is at a crossroads with parents buying residences for their young adult children and then having noise problems occur. Mr. Bernard stated the City needs to take a stand because things are taking a turn for the worse.

Mayor Ferguson stated he understands it is a serious situation. He thanked Mr. Bernard for coming forward with this issue and that laws are always a work-in-progress. It is an on-going challenge to strike a balance in the community.

Councilmember Smits asked what the procedure is for changing an ordinance. City Attorney Landwehr stated an ordinance can come before Council for consideration if it is brought forward by a citizen or from Staff.

Councilmember Stone suggested waiting for the outcome of the court trial tomorrow and if the judicial process isn't a deterrent, then Mr. Bernard could work with Chief Keehne to change the ordinance and make it more enforceable. A proposed ordinance could then be presented back to Council. Chief Keehne stated if the noise ordinance is bumped up to a nuisance violation, then the consequences are taken to a higher level.

Mr. Bernard thanked Council for listening to his concerns.

General Discussion/Items for Work Sessions: Council did not have any items for discussion.

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Public Works Director Coleman asked about action on the **Proposed Electric Rates Ordinance**. City Clerk Davidson explained to Council that she had inadvertently left that Ordinance off of the agenda. She apologized for the oversight and suggested Council take action on the Ordinance, on second reading, at the Special Session meeting on December 19, 2003.

Councilmember Stone moved and Councilmember Duba seconded the motion to add the 2nd reading of the Proposed Electric Rate Changes to the Special Session agenda on December 19, 2003.

Roll call vote, yes: Smits, Duba, Simillion, Stone, Ferguson. So carried.
Roll call vote, no: None.

Adjournment to Executive Session: Mayor Ferguson stated the Executive Session is for the discussion of a personnel matter, the City Manager’s annual performance evaluation, under C.R.S. Section 24-6-402(4)(f) and not involving: any specific employees who have requested discussion of the matter in open session; any member of this body or any elected official; the appointment of any person to fill an office of this body or an elected official; or personnel policies that do not require the discussion of matters personal to particular employees and no action will be taken during the Executive Session.

Councilmember Stone moved and Councilmember Duba seconded the motion to adjourn to Executive Session to conduct the City Manager’s annual performance evaluation.

Roll call vote, yes: Duba, Simillion, Stone, Ferguson, Smits. So carried.
Roll call vote, no: None.

The meeting adjourned to Executive Session.

The Regular Session reconvened at 9:07 P.M.

Adjournment: The meeting adjourned at 9:07 P.M.

Mayor

City Clerk